

State of California
Department of Industrial Relations
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, May 9, 2012
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: April 26, 2012

RE: Closed Session of the Board to be held on May 9, 2012

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. GARY PELLANDINI DBA GARY PELLANDINI DAIRY, 10-R2D1-1979
2. JACKSON & BLANC, 11-R3D2-0977 AND 0978

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ACCU AIR, INC., 11-R3D2-2322

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2. ALTEN CONSTRUCTION, INC., 10-R2D2-3892 AND 3893
3. PETER AMANZE ANGELI & JASON CLAY BERTLOW DBA ANGELI BERTLOW CONSTRUCTION, 11-R1D5-0574
4. ATLAS TREE SURGERY, INC., 10-R1D5-1390
5. BAILEY TREE COMPANY, INC., 11-R6D7-2150 AND 2151
6. BAY AREA RAPID TRANSIT DISTRICT, 11-R1D3-2350
7. BAY VALVE SERVICE & ENGINEERING, 10-R2D2-2828 AND 2829
8. B & B MOTORS INC., DBA THOUSAND OAKS TOYOTA/SCION, 11-R6D2-2313
9. B & B RANCH, 11-R2D4-2054
10. BELLA VISTA WATER DISTRICT, 10-R2D3-1797
11. BLACKSTONE CRAKE & TIRE REPAIR INC., 11-R6D7-3278 THROUGH 3280
12. BRIDGFORD FOODS CORPORATION, 11-R6D2-1999 THROUGH 2010
13. CAHILL CONTRACTORS, INC., 10-R1D4-2737
14. CALIFORNIA SKATEPARKS, 11-R4D1-2343
15. CONSOLIDATED DISPOSAL SERVICE LLC, 11-R4D1-1059
16. CONTINENTAL MACHINE WORKS, INC., 12-R1D4-0628 THROUGH 0631
17. COUNTY OF PLACER – DEPT. OF PUBLIC WORKS, 09-R2D1-0440 and 0441
18. CROP PRODUCTION SERVICES, 10-R6D3-3258
19. C&R WALL SYSTEMS, INC., 11-R2D1-2926
20. C & S WHOLESALE GROCERS, INC. DBA TRACY LOGISTICS, LLC, 10-R2D4-3449 AND 3450
21. CUSTOM DRYWALL INC., 10-R1D4-3270
22. DAYLIGHT FOODS, INC., 10-R1D2-4055 THROUGH 4057
23. MARTIN DE DIOS & LUZE DBA CONQUISTA PANADERIA Y TAQUERIA,

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11-R6D7-0568

24. DIVERSIFIED UTILITY SERVICES, INC., 10-R3D1-0421 THROUGH 0423
25. DORIS M. SEARS HOLDING COMPANY DBA K-MART, 11-R2D2-0151
26. DYNAPAC HARVESTING, INC., 11-R6D7-2622
27. ENSIGN WELL SERVICES 11-R4D3-3247
28. EVAPTECH, 12-R3D2-0325
29. FBD VANGUARD CONSTRUCTION, INC., 11-R2D4-1604
30. FEDEX GROUND, 11-R2D1-0251
31. FISH MARKET RESTAURANTS, 12-R3D2-0127 AND 0128
32. FINIGAN & THONSON, 09-R2D1-0973 THROUGH 0977
33. FUQUA PHYSICAL THERAPY, 11-R2D1-2659
34. FUTURE PLASTERING INC., 11-R6D7-2080
35. GENESCO INC., DBA HAT WORLD, 11-R1D4-0298 THROUGH 0300
36. GEORGE AMARAL RANCHES INC., 11-R1D2-1260
37. G & N RUBICON GEAR INC., 11-R3D1-1381
38. GOLDEN BY-PRODUCTS, INC., 11-R2D4-2128 THROUGH 2130
39. GOLDEN VALLEY CITRUS INC., 11-R2D5-3144 AND 3145
40. GRAYD-A METAL FABRICATORS, 11-R3D6-3112 AND 3113
41. GSE CONSTRUCTION CO. INC., 08-R2D1-5141 AND 5142
42. HALL MANAGEMENT CORPORATION, 11-R6D5-2646 AND 2647
43. HARTMARK CABINET DESIGN & MANUFACTURING INC., 11-R6D2-2011
THROUGH 2015
44. HISTORY OF SAN JOSE, 11-R1D2-1328 AND 1329
45. HOSTESS BRANDS, 11-R4D1-1015

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46. INTERLOCKING PAVERS SPECIALIST, 11-R1D2-0864 AND 0865
47. J & B BODY & PAINT, INC., 10-R6D7-3233 AND 3234
48. J MCCABE PLUMBING INC., 11-R1D2-1261 AND 1262
49. J & R FARMS TRANSPORTATION, INC., 10-R2D5-1359 THROUGH 1361
50. KAN-DI-KI, LLC DBA DIAGNOSTIC LABORATORIES, 11-R1D4-0484
51. KENYON PLASTERING INC., 10-R6D7-3923
52. KEYS ALUMINUM, 11-R6D2-2619
53. K H S & S OF CONCORD, INC., 11-R2D2-0374 AND 0375
54. KINDER MORGAN ENERGY PARTNERS, LP, 05-R5D1-2013 AND 2014
55. KIRKLEY CORPORATION, INC., 11-R4D2-1030
56. LANDMARK BUILDERS INC., 11-R6D7-2263 THROUGH 2269
57. LAWNMAN, INC., 11-R2D1-2656
58. MARMITEC CORPORATION DBA CITADEL TILE & MARBLE,
11-R6D67-2152
59. MARTIN JEFFERSON & SONS, 11-R6D7-1287 AND 1288
60. MARUBENI SUSTAINABLE ENERGY, INC. DBA DG FAIRHAVEN POWER
LLC, 10-R2D1-3094 THROUGH 3096
61. MARY'S PIZZA SHACK INC. #18, 12-R2D1-0297
62. MESA ENVIRONMENTAL SERVICES, INC., 11-R3D5-1880
63. MICHAELS/JAYDEE/COLUCCIO JOINT VENTURE, 11-R5D1-1707
64. MICHAELS/JAYDEE/COLUCCIO JOINT VENTURE, 11-R5D1-2241
65. MILT GUGGIA ENTERPRISES, INC., 11-R4D5-1319
66. MICRO-TECHNIC TOOL & STAMPING CORP., 11-R3D1-2383 AND 2384
67. MJO STAFFING INC., 11-R3D6-3037

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- 68. SALVADOR MUNOZ DBA LA CASA BUILDING CONTRACTORS,
11-R4D2-2141
- 69. MV TRANSPORTATION, 11-R2D2-1563
- 70. NAZARETH ENTERPRISES DBA YUBA SKILLED NURSING CENTER, INC.,
11-R2D1-0486
- 71. NISSIN FOODS, 11-R4D1-1621
- 72. NORTHGATE GONZALEZ LLC DBA NORTHGATE MARKET 22,
11-R6D2-1667 THROUGH 1670
- 73. OLIN'S FLOOR COVERING, 11-R6D1-0542
- 74. ORR BUILDERS, 12-R3D3-0326
- 75. PACIFIC EXCAVATION INC., 11-R2D1-1084
- 76. PENNINGTON CONSTRUCTION COMPANIES, 11-R4D1-2387
- 77. PRO PACIFIC PEST CONTROL LTD, 12-R3D2-0080 THROUGH 0082
- 78. QUANTA COMPUTER USA, INC., 11-R1D2-0481 AND 0482
- 79. RAMIREZ HARVEST CO INC DBA LIBERTY STAFFING,
11-R1D2-0867 AND 0868
- 80. RDR PRODUCTION BUILDERS INC, 09-R2D1-1189 THROUGH 1192
- 81. REDWOOD PAINTING COMPANY INC., 12-R6D3-0472
- 82. CORINA RIALTOS DBA MAIN STREET TIRE & WHEEL, 11-R6D7-1478
- 83. RIVERSIDE COMMUNITY DEVELOPMENT CODE ENFORCEMENT,
11-R3D3-2776
- 84. SACRAMENTO REFRIGERATION, 11-R2D1-0840
- 85. SAFEWAY INC., RICHMOND BREAD PLANT, 11-R2D2-0377
- 86. SALIM M. MOHAMMADI DBA A & K AUTO BODY & PAINT, 11-R1D4-0872
- 87. SAN JOSE ENVIRONMENTAL SERVICES DEPARTMENT,
11-R1D2-1920 AND 1921

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88. SG WHOLESALE ROOFING SUPPLIES INC., 11-R3D1-2378 AND 2379
89. SHAW DIVERSIFIED SERVICES, 11-R3D6-3154
90. SIERRA PACIFIC INDUSTRIES, 09-R2D3-1951
91. SMITTY'S CONCRETE PUMPING INC., 11-R6D2-2805 THROUGH 2807
92. SNAK KING CORP., 11-R3D6-3227
93. SOLARCITY CORP. DBA SOLAR CITY, 11-R1D1-2557 AND 11-R1D1-2653
94. SOUTH FEATHER WATER & POWER AGENCY, 11-R6D3-2111
95. SSA TERMINALS (SAN DIEGO), 11-R6D2-0823 THROUGH 0825
96. STEBBINS, INC DBA CREST CONSTRUCTION, 12-R1D4-0597
97. SULLIVAN AUTO GROUP DBA ROSEVILLE TOYOTA, 12-R2D1-0296
98. SUNNYVALE SANTA CLARA LLC DBA EL POLLO LOCO, 11-R1D2-1042
99. SUNRISE COMMUNITY CHURCH, 11-R2D1-2664
100. SUNVIEW COLD STORAGE, 11-R4D3-2639 THROUGH 2641
101. TENNYSON COMPANY, 11-R2D4-0615
102. TERRA PACIFIC LANDSCAPE, 11-R3D1-2994
103. THE ASTRA GROUP, 12-R3D2-0604
104. THE CARTER GROUP DBA ALLING IRON WORKS,
09-R2D1-2576 THROUGH 2578
105. THERMASOURCE, INC., 11-R1D5-1639
106. TIBURON VISTA RESTAURANT CORPORATION DBA GUAYMAS
RESTAURANT, 10-R1D5-3620 THROUGH 3622
107. TIN INC. DBA TEMPLE-INLAND, INC., 11-R3D6-2817 THROUGH 2723
108. TRAXX CORPORATION, 11-R3D6-1881 THROUGH 1887
109. TRI QUALITY, INC., 09-R2D1-1770 THROUGH 1772

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- 110. UPS FREIGHT, 10-R1D2-3348
- 111. US JOINER LLC, 12-R6D2-0244 THROUGH 0246
- 112. VANTAGE CONSTRUCTION, 11-R6D7-2187 AND 12-R6D7-0973
- 113. VEOLIA WATER PROCESS SOLUTIONS, 12-R6D2-0042
- 114. VINTAGE PAVING CO., 09-R2D3-4199
- 115. WAL-MART STORES, INC. STORE 5434, 11-R1D4-1079 TO 1080
- 116. W.E. O'NEIL CONSTRUCTION COMPANY OF CALIFORNIA, 11-R4D1-2041
- 117. WINDMILL COVE RESORT AND MARINA LLC, 11-R2D4-1691
THROUGH 1694
- 118. WINDOW WORLD OF CA – SAN DIEGO, 12-R3D2-0083 THROUGH 0085
- 119. LANCE ZIMMER DBA ZIMMER CONSTRUCTION, 11-R2D3-1641 AND 1642
- 120. ZONNEVELD DAIRIES INC., 12-R2D5-0269

ORDER GRANTING LEAVE TO FILE LATE APPEALS:

- 1. ALPHA CERAMIC SUPPLIES, IN. DBA ALPHA FIRED ARTS, 12-R2D1-1191

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

- 1. MICHELANGELO LEASING INC., 12-R3D2-9049
- 2. WILLIAMS JANITORIAL, 12-R2D5-9047

ORDERS DISMISSING APPEALS:

- 1. DOLLAR MAXX, 11-R1D1-1289
- 2. FRANCIS MONGOL DBA CAR LLC AUTO BODY, 10-R2D2-3830
THROUGH 3835
- 3. N.A. GENERAL FORKLIFT INC., 10-R1D4-3805 THROUGH 3807

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

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1. FRG OIL, INC. DBA INSTANT SMOG CHECK, 11-R3D2-1056
2. ROSAL AUTO RECYCLERS, INC. DBA CONTINENTAL TOWING, INC.,
10-R2D2-1050 THROUGH 1052
3. WILLIAMS JANITORIAL, 12-R2D5-9047

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. A-CO TEMPORARY POWER, 10-R4D1-3110 AND 11-R4D1-9206
3. ALIKA IKAIIKA ENTERPRISES INC., DBA ATTENTION TO DETAILS, INC.,
10-R1D2-1191
4. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
5. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
6. AC TRANSIT, 08-R1D4-0135
7. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
8. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
9. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
10. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
11. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
12. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963

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13. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
14. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
15. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
16. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
17. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
18. CENTRAL VALLEY ENGINEERING & ASPHALT, INC.
08-R2D1 5001 AND 5002
19. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
20. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
21. COMMERCIAL METAL FORMING, 09-R3D1-1592
22. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
23. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
24. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
25. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
26. DELTA TRANSPORTATION, INC., 08-R2D1-4999
27. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
28. DESIGN BUILDERS, INC., 08-R4D4-1901
29. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
30. DUKE PACIFIC, INC., 08-R3D3-574
31. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
32. EZ MIX, INC., 08-R4D3-1898
33. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219

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34. FORTUNA IRON WORKS 06-R2D3-4222
35. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
36. HOLLINGER CONSTRUCTION INC., 11-R4D1-0891
37. HOME DEPOT, 10-R3D6-3284
38. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
39. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
40. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
41. LION RAISINS, INC., 08-R2D5-2253 AND 2254
42. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
43. MARINE TERMINALS, 08-R6D2-1920
44. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
45. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
46. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
47. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
48. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
49. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
50. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
51. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE
CONTRACTING, INC., 08-R2D1-0025 AND 0026
52. POUK & STEINLE, INC., 09-R3D3-0491
53. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
54. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
55. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
56. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297

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- 57. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
- 58. SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693
- 59. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
- 60. SMUD, 08-R2D1-4887 THROUGH 4889
- 61. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
- 62. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
- 63. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
- 64. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
- 65. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
- 66. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459
AND 0460
- 67. THAYER CONSTRUCTION, INC., 09-R3D3-4206 THROUGH 4208
- 68. VIC ROSS'S MASONRY, INC., 11-R3D2-0708 AND 0709

LEGISLATION:

(Discussion of pending legislation which may require Board analysis pursuant to Government Code section §6254(l))

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

- 1. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB)
 - a. (00-440)
- 2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)

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3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
a. 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
8. SMUD, 34-2010-80000723 (08-R2D1-4887)
9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010
a. (08-R2D1-3273)
13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
a. THROUGH 2461)
14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
15. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
17. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)

COURT OF APPEAL

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL:

(Issues regarding staff)

Any matter not completed at this Closed Session may be continued to subsequent meetings.